

REMARKS

Claims 1-42 stand rejected. Claim 1 is amended. Therefore, claims 1-42 are remain pending. Reconsideration and allowance of all pending claims are respectfully requested.

Rejections Under 35 U.S.C. § 102(e)

The Office Action rejects claims 1-6, 8, 17, 19-22, 24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,141,567 to Youssefmir *et al.* (hereinafter "Youssefmir"). A claim is anticipated only if each and every element of the claim is found in a single reference. (M.P.E.P. § 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)). The identical invention must be shown in as complete detail as is contained in the claims. (*Id.*, citing *Richardson v. Suzuki Motor Co*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) Emphasis added.).

Claim 1

Independent claim 1, as amended, recites in pertinent part:

characterizing the environment based on the
estimated uplink spatial signatures as one of a
plurality of predetermined environments (emphasis
added)

The amendment to claim 1 is fully supported by at least Figure 5 (e.g., blocks 511 and 513). Therefore, no new matter is added.

The rejections are based on Youssefmir, which is cited as disclosing "essentially all the claimed invention ... " in column 2 lines 1-16. However, column 2, lines 1-16 of Youssefmir fails to teach or disclose: (a) predetermined environments; and (b) characterizing the environment based on the estimated uplink spatial signatures as one of a plurality of predetermined environments as

recited in amended claim 1. Rather, the cited portion of Youssefmir indicates that a signature estimation is useful in facilitating the computation of downlink and uplink weights (see column 2, lines 7-8). The cited disclosure of Youssefmir appears to be directed to using signature estimation to modify parameters (e.g., weights) of a particular algorithm used to form signals for transmission or to process received signals.

This is distinguished from the subject matter of claim 1 in which the environment is characterized as one of a plurality of predetermined environments. Thus, for example, a method according to claim 1 can be used in applications in which the optimal algorithm used to form signals for transmission or to process received signals depends on the environment. By characterizing the environment according to claim 1, an optimal algorithm for the environment can be selected.

In summary, the cited disclosure of Youssefmir does not teach or suggest any predetermined environments. Further, the cited disclosure of Youssefmir does not teach or suggest "characterizing the environment ... as one of a plurality of predetermined environments" as recited in claim 1. Accordingly, claim 1 is not anticipated by the cited disclosure of Youssefmir.

Claims 2-6

Claims 2-6 depend from claim 1 and, therefore, are distinguishable over the cited disclosure of Youssefmir for at least the reasons that claim 1 is distinguishable.

Claim 8

Applicant respectfully traverses the anticipation rejection of claim 8. Claim 8 is dependent from claim 7, which stands rejected under 35 U.S.C. 103(a) as

being obvious over Youssefmir in view of U.S. Patent No. 6,185,440 to Barratt *et al.* (hereinafter Barratt). The obviousness rejection of claim 7 indicates that Youssefmir alone does not teach each and every element of claim 7. Because Youssefmir does not disclose each and every element of parent claim 7, Youssefmir can in no way teach each and every element of dependent claim 8. Further, as will be described below, the obviousness rejection of parent claim 7 is improper under 35 U.S.C. 103(c). Therefore, the references cited for the obviousness rejection of claim 7 are also not available as prior art for an obviousness rejection of dependent claim 8. Accordingly, Applicant respectfully submits that claim 8 is neither anticipated or rendered obvious by the cited disclosures.

Claims 17, and 20-22

Applicant respectfully traverses the anticipation rejections of claim 17, and 20-22. Claims 17, and 20-22 depend from independent claim 16, which is not indicated as being rejected in the "Detailed Action" section of the Office Action dated July 5, 2002. As described in the accompanying Petition to Revoke, Applicant did not receive the Office Action dated July 5, 2002 until the UPSTO faxed a copy to Applicant's representatives on January 23, 2003. The fax did not include page 1, which would indicate which claims stand rejected and allowed. Thus, it is not clear whether Claim 16 is allowed or rejected. If claim 16 is allowed, then dependent claim 17 is allowable on the same basis as claim 16.

However, if claim 16 is also rejected under 35 U.S.C. 102(e) based on Youssefmir, then Applicant respectfully traverses the rejection of claim 16. In particular, independent claim 16 recites in pertinent part:

a signal processor ... to select an estimation of an environment(emphasis added)

To anticipate claim 16, a prior art reference must teach each and every element of claim 16, including a signal processor to select an estimation of an environment. However, the cited disclosure of Youssefmir in no way teaches or suggests such a signal processor. Rather, the cited disclosure of Youssefmir recites, "... the receiver can estimate the user and interferer spatial or spatio-temporal signatures." There is no disclosure of a "signal processor to select an estimation of an environment". One of ordinary skill in the art will appreciate that "to select" is not identical to "to estimate". Thus, claim 16 is not anticipated because the cited disclosure of Youssefmir fails to teach each and every element of claim 16. Consequently, claims 17 and 20-22 (which depend from claim 16) are not anticipated by the cited disclosure of Youssefmir for at least the same reasons that claim 16 is not anticipated by the cited disclosure of Youssefmir.

Claim 19

Applicant respectfully traverses the anticipation rejection of claim 19. Claim 19 depends on independent claim 18, which is not indicated as being rejected in the "Detailed Action" section of the Office Action dated July 5, 2002. Similar to the situation of claims 16 and 17 discussed above, it is not clear whether Claim 18 is allowed or rejected. If claim 18 is allowed, then dependent claim 19 is allowable on the same basis as claim 18.

However, if claim 18 is also rejected under 35 U.S.C. 102(e) based on Youssefmir, then Applicant respectfully traverses the rejection of claim 18. In particular, claim 18 depends on claim 16. As described above, Applicant has traversed the possible anticipation rejection of claim 16 based on Youssefmir. Therefore, claim 18 is not anticipated by Youssefmir for at least the same reasons that claim 16 is not anticipated by Youssefmir.

Claim 24

Applicant respectfully traverses the anticipation rejection of claim 24. Claim 24 is dependent from claim 23, which stands rejected under 35 U.S.C. 103(a) as being obvious over Youssefmir in view of Barratt. This obviousness rejection indicates that Youssefmir *alone* does not teach each and every element of parent claim 23. Because Youssefmir does not disclose each and every element of parent claim 23, Youssefmir can in no way teach each and every element of dependent claim 24. Further, as will be described below, the obviousness rejection of parent claim 23 is improper under 35 U.S.C. 103(c). Therefore, the references cited for the obviousness rejection of claim 23 are also not available as prior art in an obviousness rejection of dependent claim 24.

Rejections Under 35 U.S.C. § 103(a)

Claims 7, 9, and 25-42 stand rejected under 35 U.S.C. 103(a) as being obvious over Youssefmir in view of Barratt. Applicants respectfully traverse.

Youssefmir and Barratt can only qualify as prior art under 35 U.S.C. 102(e). Further, the subject matter and claimed invention were, at the time the invention was made, subject to an obligation of assignment (and was assigned) to the same assignee as the present application. Therefore, under 35 U.S.C. 103(c), Youssefmir and Barratt are disqualified as prior art for obviousness rejections of the claims of the present application. MPEP 706.02(I)(1).

Claims 10-12

Claims 10-12 also stand rejected under 35 U.S.C. 103(a) (see page 4, lines 9-11 of the Office Action). However, as described above for claims 7, 9,

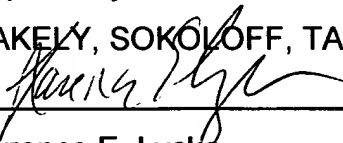
and 25-42, the cited references are disqualified as prior art under 35 U.S.C. 102(c).

Claims 13-15, and 23

Claims 13-15 and 23 stand rejected under 35 U.S.C. 103(a) as being obvious over Youssefmir in view of Barratt, further in view of U.S. Patent No. 6,167,039 to Karlsson *et al.* Applicants respectfully traverse because Youssefmir and Barrat are disqualified as prior art for obviousness rejections under 35 U.S.C. 103(c) as previously discussed.

CONCLUSION

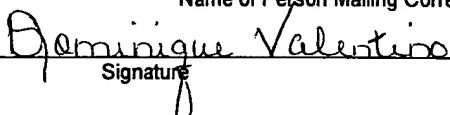
In view of the foregoing claim amendment and remarks, Applicant respectfully submits that all pending claims are allowable. Therefore, Applicant respectfully requests a timely Notice of Allowance be issued in this case. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,
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